

## REQUEST TO TESTIFY

To the Employee Benefits Security Administration

### **Re: Docket No. EBSA–2023–0014: Hearings, Meetings, Proceedings etc.: Retirement Security Rule; Definition of an Investment Advice Fiduciary and Associated Prohibited Transaction Exemption Amendments**

I hereby submit my Request to Testify at The Department of Labor’s Employee Benefits Security Administration (EBSA) virtual public hearing, to be held December 12 through December 13, 2023, continuing (if necessary) on December 14, 2023.

Name: Kathleen M. McBride, AIFA® - Accredited Investment Fiduciary Analyst; CEFEX Analyst®, Centre for Fiduciary Excellence

Title: Founder, FiduciaryPath, LLC  
402(a) Named Fiduciary Specialist, Fiduciary Wise LLC  
Founding member and current Chair, The Committee for the Fiduciary Standard

Address: Rumson, NJ 07760

Email: kmcbride@fiduciarypath.com

Organization: My testimony is my own and will not reflect the views of any organization.

Written Comments: Not yet submitted.

Testimony outline:

1. The importance of addressing the circa 1975 five-part test that was issued in an era during which corporate pensions were the norm, and employers were responsible for providing a pension plan for employees.
2. Why it is crucial for all retirement savers to receive advice and recommendations that are solely in their best interest, from intermediaries who must act as a fiduciary for that advice, without carveouts, loopholes or escape hatches.
3. Rollovers.
4. A discussion of why “choice” is a false narrative when that “choice” would harm the retirement saver and at the same time enrich the provider of that “choice,” false “recommendation” or “advice.”
5. Why the discussion should continue regarding how many investment product providers had already started to change products, compensation, and procedures when the Fifth Circuit decision derailed the 2016 DOL Rule.
6. How the claims from banks, broker-dealers and insurers who threatened to stop working with clients of more modest means were untrue. Other firms were, and still are, working as fiduciaries to clients of all sizes, inside and outside of retirement accounts.

7. A discussion of the harm caused by high cost, low payout annuities with features that can be changed by the insurer, in the insurer's favor, and typically do not show how long it would take, and how low the probability is, for retirement investors to break even on an annuity.
8. A discussion of insurance and brokerage compensation practices that materially harm retirement investors, especially those investors who have been falsely persuaded that they are receiving fiduciary recommendations or advice.

Respectfully submitted,

Kathleen M. McBride, AIFA®, CEFEX Analyst®, BCF™